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| 09/808,501 | 03/14/2001 | John Anthony Beaven | GB920000055US1 | 3614 |
| 46589 7590 08/24/2007 MYERS BIGEL SIBLEY SAJOVEC P.A. PO BOX 37428 RALEIGH, NC 27627 | | | EXAMINER KANG, INSUN | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/808,501

Applicant(s)

BEAVEN ET AL.

Examiner

Insun Kang

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed on 6/5/2007.
2. As per applicant's request, claims 1, 18, and 34-49 have been amended. Claims 1-49 are pending.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1 and 3-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1 and 3-17 are non-statutory because they are directed to a computer system that does not have physical structural elements and the computer system is directed to a computer program that is disembodied arrangement without creating any functional interrelationship, either as part of the stored data or as part of the computing processes performed by a computer ("acts") or a computer storage medium so as to enable the computer to perform the claimed program as recited. The element having an application model for output is not recited to be a physical element that displays the application model. Instead, it is a program having an application model "for output." Therefore, the claim is non-statutory. It is recommended to replace a "computer system" as a "computer system having a processor."

The following link on the World Wide Web is for the United States Patent And Trademark Office (USPTO) policy on 35 U.S.C. §101.

http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-14, 17-30, 33-46, and 49 are rejected under 35 U.S.C. 102(e) as being anticipated by Negri (US 2002/0059079).

Per claim 1:

Negri discloses:

-a component specification element that specifies components (i.e. “Defines the principal components in a service. These include the software services and related physical elements that combine to deliver the service,” 0048);

-a control flow specification element that specifies control flows (i.e. “The business process involves the flow of data and control through a complex arrangement of these components...eService management must understand this flow of data,” 0046; 0049, “work together in complex flows of control,” 0050)

- a data flow specification element that specifies data flows (i.e. “The business process involves the flow of data and control through a complex arrangement of these components...eService management must understand this flow of data,” 0046; 0049, 0050; 0060);

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-a resource specification element that specifies resources (i.e. "share common resources," 0050, 0051, 0060, 0063);

-a quality of service specification derivation element, the quality of service specification derivation element (i.e. "deriving an e-service management strategy based on said business process specification...ensuring the service quality of said e-service," claim 1; 0036; 0050; 0057; 0063) having for output an application model in combination with a quality of service specification derived by implication from relations between the components, the control flows, the data flows and the resources(i.e. "(i.e. "An eService model...Defines the principal components in a service...Components are modeled by service delivery function...Process and responsibilities may be defined by function...Establishes implicit and explicit relationships...share common resources, exchange data with each other, collect common statistics, and work together in complex flows of control," 0047-0050; 0046);

-wherein said quality of service specification is made available to a runtime engine for deployment as a runtime contract in a runtime processing environment (i.e. "Service Level Agreements (SLA)," 0014; "a WebLogic BeX can be deployed at any site built upon BEA's WebLogic application server, 0058) as claimed.

Per claim 2:

The rejection of claim 1 is incorporated, and further, Negri discloses a runtime engine for deploying said runtime contract (i.e. "Service Level Agreements (SLA)," 0014; "a WebLogic BeX can be deployed at any site built upon BEA's WebLogic application server, 0058; claim 1; 0036; 0050; 0057; 0063) as claimed.

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Per claim 3:

The rejection of claim 1 is incorporated, and further, Negri discloses a messaging requirement contract (i.e. "Service Level Agreements (SLA)," 0014; "a WebLogic BeX can be deployed at any site built upon BEA's WebLogic application server, 0058; claim 1; 0036; 0050; 0057; 0063) as claimed.

Per claim 4:

The rejection of claim 1 is incorporated, and further, Negri discloses a transactionality requirement contract (i.e. "Service Level Agreements (SLA)," 0014; "a WebLogic BeX can be deployed at any site built upon BEA's WebLogic application server, 0058; claim 1; 0036; 0050; 0057; 0063) as claimed.

Per claim 5:

The rejection of claim 1 is incorporated, and further, Negri discloses a security requirement contract (i.e. "Service Level Agreements (SLA)," 0014; "a WebLogic BeX can be deployed at any site built upon BEA's WebLogic application server, 0058; claim 1; 0036; 0050; 0057; 0063) as claimed.

Per claim 6:

The rejection of claim 1 is incorporated, and further, Negri discloses

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a recoverability requirement contract (i.e. "Service Level Agreements (SLA)," 0014; "a WebLogic BeX can be deployed at any site built upon BEA's WebLogic application server, 0058; claim 1; 0036; 0050; 0057; 0063) as claimed.

Per claim 7:

The rejection of claim 1 is incorporated, and further, Negri discloses a completion requirement contract (i.e. "Service Level Agreements (SLA)," 0014; "a WebLogic BeX can be deployed at any site built upon BEA's WebLogic application server, 0058; claim 1; 0036; 0050; 0057; 0063) as claimed.

Per claim 8:

The rejection of claim 7 is incorporated, and further, Negri discloses a completion requirement contract specifying transactional behavior (i.e. "Service Level Agreements (SLA)," 0014; "a WebLogic BeX can be deployed at any site built upon BEA's WebLogic application server, 0058; claim 1; 0036; 0050; 0057; 0063) as claimed.

Per claim 9:

The rejection of claim 7 is incorporated, and further, Negri discloses a completion requirement contract specifying compensation behavior (i.e. "Service Level Agreements (SLA)," 0014; "a WebLogic BeX can be deployed at any site built upon BEA's WebLogic application server, 0058; claim 1; 0036; 0050; 0057; 0063) as claimed.

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Per claim 10:

The rejection of claim 1 is incorporated, and further, Negri discloses at least one of a reliability, availability and serviceability requirement contract (i.e. "Service Level Agreements (SLA)," 0014; "a WebLogic BeX can be deployed at any site built upon BEA's WebLogic application server, 0058; claim 1; 0036; 0050; 0057; 0063) as claimed.

Per claim 11:

The rejection of claim 1 is incorporated, and further, Negri discloses a quality of delivery requirement contract (i.e. "Service Level Agreements (SLA)," 0014; "a WebLogic BeX can be deployed at any site built upon BEA's WebLogic application server, 0058; claim 1; 0036; 0050; 0057; 0063) as claimed.

Per claim 12:

The rejection of claim 1 is incorporated, and further, Negri discloses at least one of a priority requirement and a response goal requirement contract (i.e. "Service Level Agreements (SLA)," 0014; "a WebLogic BeX can be deployed at any site built upon BEA's WebLogic application server, 0058; claim 1; 0036; 0050; 0057; 0063) as claimed.

Per claim 13:

The rejection of claim 1 is incorporated, and further, Negri discloses a performance requirement contract (i.e. "Service Level Agreements (SLA)," 0014; "a WebLogic BeX can be deployed at any site built upon BEA's WebLogic application server, 0058; claim 1; 0036; 0050; 0057; 0063) as claimed.

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Per claim 14:

The rejection of claim 1 is incorporated, and further, Negri discloses the quality of service specification is stored in a repository (i.e. 0051).

Per claim 17:

The rejection of claim 1 is incorporated, and further, Negri discloses a quality of service specification is stored in a modeling language (i.e. "eService modeling," 0044) as claimed.

Per claims 18-30 and 33, they are the method versions of claims 1, 2, 4-14 and 17, respectively, and are rejected for the same reasons set forth in connection with the rejection of claims 1, 2, 4-14 and 17 above.

Per claims 34-46 and 49, they are the computer program versions of claims 18-30 and 33, respectively and are rejected for the same reasons set forth in connection with the rejection of claims 18-30 and 33 above.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 15, 16, 31, 32, 47, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Negri (US 2002/0059079) as applied to claims 1-14, 17-30, 33-46 and 49 above in view of Koistinen et al. ("Quality of Service Aware Distributed Object Systems," 5/1999) hereinafter referred to as "Koistinen."

Per claim 16:

The rejection of claim 1 is incorporated, and further, Negri does not explicitly teach that the quality of service specification is stored in XML. However, Koistinen teaches that storing a quality of service specification in a tagged markup language such as XML was known in the pertinent art, at the time applicant's invention was made, "so that it can be understood readily by humans and parsed easily (pg 9, Implementation section)" such as that disclosed in Koistinen. It would have been obvious for one skilled in the art of the pertinent art to modify Negri's disclosed system to use XML. The modification would be obvious because one skilled in the art would be motivated to provide readability and ease parsing as taught by Koistinen (pg 9, Implementation section).

Per claim 32, it is the method version of claim 16, respectively, and is rejected for the same reasons set forth in connection with the rejection of claim 16 above.

Per claim 48, it is the computer program version of claim 16, respectively, and is rejected for the same reasons set forth in connection with the rejection of claim 16 above.

Per claim 15, this claim is broader version of the claimed system discussed in claim 16 wherein all claim limitations also have been addressed and/or covered in cited areas as set forth

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the above. XML in claim 16 is a tagged markup language. Therefore, accordingly, see the rejection of claim 16 above.

Per claim 31, it is the method version of claim 15, respectively, and is rejected for the same reasons set forth in connection with the rejection of claim 15 above.

Per claim 47, it is the computer program version of claim 15, respectively, and is rejected for the same reasons set forth in connection with the rejection of claim 15 above.

Response to Arguments

9. Applicant's arguments filed on 6/5/2007 have been fully considered but they are not persuasive.

The applicant states that Negri does not disclose defining a control flow specification element, a data flow specification element, a resource specification element, and/or a quality of service specification derivation element and outputting an application model in addition to the e-service management strategy (remark, page 12).

In response to the above statement, Negri discloses the business process involving the flow of data and control through a complex arrangement of these components (i.e. 0046) and the e-service management ensuring the service quality of the e-service (i.e. 0036). The eService model defines the data and control flow and establishes implicit and explicit relationships (i.e. "Establishes implicit and explicit relationships...share common resources, exchange data with each other, collect common statistics, and work together in complex flows of control," 0047-0050; 0046). The eService Management generates a eService model of components (i.e. 0054-55) and derives an e-service management strategy (abstract; 0056).

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Insun Kang whose telephone number is 571-272-3724. The examiner can normally be reached on M-R 6:30-5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MENG AI AN can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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